

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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To: Members, Assembly Natural Resources Committee

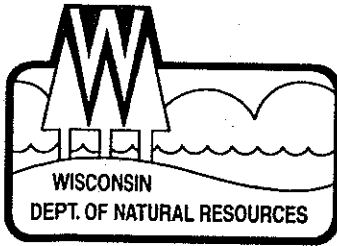
From: DNR Secretary Matt Frank

Subject: Assembly Bill 297

Attached is DNR's testimony on 2005 Assembly Bill 850 as amended, dealing with the regulation of piers. Because our comments and support for that compromise language are the same as they were last session, I have attached that past testimony. During negotiations on 2005 AB 850, a compromise had been struck on the regulation of piers which the DNR and Governor Doyle supported. Unfortunately, that compromise language never made it to the Governor's desk for his signature.

Now that the compromise language is again in front of the Legislature as 2007 AB 297 and SB 169, we would like to renew our support.

If you have any further questions, DNR Executive Assistant Mary Ellen Vollbrecht and DNR Water Division Administrator Todd Ambs stand poised to assist you.



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Testimony of Todd Ambs, Water Division Administrator on Senate Substitute Amendment to AB 850

Senate Natural Resources and Transportation Committee
March 8, 2006

On December 1, 2005, Secretary Hassett testified before the Assembly Natural Resources Committee, in opposition to AB 850. Since then, many individuals and organizations have worked hard with Senator Kedzie and Representative Gunderson, to develop a compromise bill that addresses the Department's concerns, but also responds to legislative and constituent concerns about DNR's proposed pier rules. I thank Senator Kedzie and Representative Gunderson for their leadership in these efforts, and I am pleased to testify today in support of this Senate Substitute Amendment.

Two years ago, when the legislature passed Act 118 and the Governor signed it into law, you established specific exemption standards for piers. Since then the Department has continued to pursue rules and legislation that achieve four goals:

- 1) Ensure that new piers are of a reasonable size
- 2) Grandfather all existing piers that meet the reasonable use test and that don't interfere with public rights – the same standard that has existed in Wisconsin for decades.
- 3) Establish certainty for everyone concerned, through numeric size limits, regarding what the owners of oversized piers must do to achieve compliance.
- 4) Provide a mechanism to analyze the largest structures to make sure that those structures comply with the law and are not appropriating our public waters for a private purpose.

The Senate Substitute Amendment achieves these goals, and establishes clear legislative intent for the regulation of piers and similar structures in Wisconsin. Here's what we believe the Senate Substitute Amendment does:

Exemption

Piers that don't need a permit can be up to 6-feet wide under current statute. This bill allows an 8-foot wide "T" or "L" platform at the end, to address concerns from manufacturers and dealers of 4-foot wide pier sections. **More than 85% of current pier owners will have to do NOTHING, and the additional flexibility allows new piers to have a reasonable platform for loading and recreational use.**

Grandfathering of Existing Piers

The bill grandfathers most piers that existed before the date of Act 118, but that don't meet the exemption requirements. These pier owners simply register their pier with DNR sometime in the next 3 years, through a one-time free process. They get a document back that they can record at the Register of Deeds if they desire. The registration insures that the pier owner can keep their existing pier at whatever length and number of boat slips it has. Also the pier can be up to 8-feet wide, have a platform up to 200 square feet in size, or up to 300 square feet as long as the platform is no more than 10-feet wide. Why do we care about width? Simple – the wider the platform, the more it inhibits sunlight from reaching aquatic plants, and the more it harms habitat in our lakes and rivers. Limiting platform size and especially width is critical to ensuring that grandfathered piers don't harm public rights.

Existing Piers that need a Permit

Less than 0.5% of all existing piers will have a larger platform and will require a one-time Individual Permit from DNR. These pier owners will have to demonstrate that their pier doesn't harm public rights or the rights of other waterfront owners - the same standards that have been in statute for decades. Under the Senate Substitute Amendment, the owner of an existing pier will not have to pay a fee to go through this Individual Permit process.

Funding

Let me be very clear – it will cost the Department about \$400,000 to implement this legislation. Education and outreach to property owners who want to understand what's in the new law, responding to requests for Exemption Determinations from property owners, processing free grandfathering Registrations, processing Individual Permits for the piers with larger platforms – these all require significant staff time and financial resources, with no revenue to offset the costs. We can support the bill before you today because it appropriates the money we need for implementation. Without either permit fees or an appropriation to cover our \$400,000 costs, we'll be forced to shift resources from other waterway permit work, increasing turnaround times for other regulated activities and undoing much of the streamlining we all worked so hard to achieve with Act 118.

New Piers

The Senate Substitute Amendment addresses concerns that many had regarding how DNR's proposed rules limited options for new piers to go beyond exemption standards. This bill allows anyone to apply for an individual permit for a new pier, including solid piers or proposals for additional boat slips. It also allows more boat slips for new multifamily residential or commercial development on larger lakes that are not specially-designated waters, but requires a permit process to ensure that public and neighboring rights are protected.

Carefully Crafted Compromise

Like most controversial issues, this Senate Substitute Amendment to AB 850 represents a carefully crafted compromise that either strikes a reasonable balance or has a little something in it to irritate everybody, depending on your perspective.

We are a bit uncomfortable with allowing ten foot wide, 300 square foot decks to stay on our public waters, but we can live with it.

We have some heartburn with allowing double density for boat slips solely because a property has more dwelling units on the same amount of shoreline, but we can live with it.

And we would have preferred to have more certainty when reviewing applications for solid piers on the Great Lakes or for individual permits for multi-unit dwellings, but we can live with it.

We can live with these things because this legislation as drafted does set clear limits on new piers and provides a mechanism for reviewing existing large party platforms so that we can make sure that no one is appropriating the public waters of this state for their own private use.

I mention these things because there may be attempts by other interests to amend or alter this legislation. Frankly, we would like a few amendments of our own. But we would suggest at this stage that any substantive changes to this carefully crafted compromise would very likely change our view of this bill.

So I urge you to approve this amended bill as is and to then urge the Assembly to concur with this version of AB 850.

Thank you for your time. I would be happy to try to answer any questions.

